

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFFS NATURAL RESOURCES INC.)	CASE NO. 1:16-cv-03034
)	
Plaintiff,)	JUDGE
)	
v.)	<u>CLIFFS NATURAL RESOURCES</u>
)	<u>INC.'S MOTION FOR EXPEDITED</u>
SENECA COAL RESOURCES, LLC, <i>et al.</i>)	<u>DISCOVERY</u>
)	
Defendants.)	
)	

Pursuant to Rules 26(d), 30, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff Cliffs Natural Resources Inc. (“Cliffs”) respectfully moves this Court for an order: (1) requiring Defendants Seneca Coal Resources, LLC (“Seneca”), Thomas M. Clarke, Ana M. Clarke, Kenneth R. McCoy, and Jason R. McCoy (collectively “Defendants”) to respond to the limited written discovery requests (three interrogatories and five documents requests) attached hereto no later than 5:00 p.m. on December 27, 2016, and (2) permitting Cliffs to take depositions of the Defendants in advance of the Rule 26(f) Conference and initial disclosures under Rule 26(a)(1)(A).

As set forth in Cliffs’ concurrently filed Complaint and the attached Memorandum in Support, which is incorporated herein, Seneca has an outstanding debt to Cliffs in excess of \$6 million (\$6,000,000) for which Seneca claims it has inadequate resources to pay. Cliffs requires this expedited discovery by December 27, 2016, because Seneca has announced that it is planning a “restructuring” of its corporate form on December 31, 2016, and, upon information and belief, plans to transfer certain of its assets to insiders. Seneca and its Managing Member, Defendant Thomas M. Clarke, have refused to provide written assurances to Cliffs that Seneca will not make any transfers of money to Mr. Clarke or others “until the debts due Cliffs by

Seneca are paid in full.” Additionally, upon information and belief, Seneca may be planning to contribute to Mr. Clarke’s purchase of the assets of Magnetation, LLC out of bankruptcy. As a result, time is of the essence and discovery is needed immediately. This expedited discovery will permit Cliffs to determine the effect of the “restructuring” and purchase of Magnetation on its ability to collect the unpaid debts owed to it by Seneca and stop any unlawful transfers. Further, this discovery may aid in the disposition of Cliffs’ declaratory judgment claim, which seeks final judgment declaring that Seneca is not entitled to transfer money or assets to affiliated companies or owners until Cliffs’ rights to payment from Seneca have been satisfied by Seneca.

The discovery attached hereto and sought by Cliffs is very limited and includes only three interrogatories and five requests for production of documents. This limited discovery will not prejudice or overly burden Defendants, but will have a tremendous impact on Cliffs’ ability to litigate its claims and preserve its right to payment. For the forgoing reasons, and the reasons set forth in the attached Memorandum in Support, Cliffs respectfully requests that this Court issue an order: (1) requiring Defendants to respond to the written discovery requests attached hereto no later than 5:00 p.m. on December 27, 2016, and (2) permitting Cliffs to take depositions of the Defendants in advance of the Rule 26(f) Conference and initial disclosures under Rule 26(a)(1)(A).

Respectfully submitted,

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*Attorneys for Plaintiff Cliffs Natural
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CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2016, a copy of the foregoing was served via the Court's CM/ECF system, which will give notice to the parties in this action, as well as certified mail, return receipt requested, to the following:

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/s/ Robert J. Fogarty

One of the Attorneys for Plaintiff